

MINUTES OF THE CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

August 19, 1997

The Capital Projects and Bond Oversight Committee met on Tuesday, August 19, 1997, at 1:00 PM, in Room 131 of the Capitol Annex. Representative Robert Damron, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Robert Damron, Chairman; Senator Robert Leeper, Vice-Chairman; Senators Tom Buford and Denny Nunnolley; and Representatives Drew Graham and Jim Wayne.

Guests: Representatives Pete Worthington and Joe Barrows; Bill Hintze, Allen Holt, David Meyer, Patricia Pennington, and Geoff Pinkerton, Governor's Office for Policy and Management (GOPM); Commissioner Armond Russ, Jim Abbott, Jim Butler, and Michelle Reffitt, Department for Facilities Management; Kim Blitch, Bart Hardin, and Tom Howard, Office of Financial Management and Economic Analysis; Sherron Jackson, Council on Postsecondary Education; Mary Allen, University of Kentucky; Dr. Bob Tarvin and Bob Langley, School Facilities Construction Commission; Libby Marshall, Kentucky School Boards Association; Dr. Gus T. Ridgel, Harold S. Greene, Douglas Baldwin, and Brooks Giles, Jr., Kentucky State University; Commissioner Kenny Rapier, Bob Bender, and Hugh Smith, Department of Parks; Secretary Dan Cherry, Justice Cabinet; Jim Owen and Charles Bush, Department of Fish and Wildlife Resources; Joe Lacefield, Division of Forestry; Jim Carloss, U.S. Corrections Corporation; Mark Ryles, Kentucky Department of Education; Secretary John McCarty, Bonnie Howell, Rex Hunt, Chris Kellogg, Karen Powell, and Jim True, Finance and Administration Cabinet; Laura Mielcarek, Bank One; Porter Dailey, Morehead State University; Annette Coffey, Department of Transportation; Bob McBeath, State Auditor's Office; Jack Affeldt, Kim Burch, Karen Hilborn Crabtree, and Doug Teague, LRC.

Press: Tom Loftus, Louisville Courier-Journal.

Management and Economic Analysis (OFMEA) relating to selection of underwriters' counsel for a state bond issue; and correspondence from Bill Hintze, Deputy State Budget Director, Governor's Office for Policy and Management, relating to the Kentucky Community and Technical College System budget report.

Mr. Tom Howard, OFMEA, first reported on Kentucky Infrastructure Authority (KIA) bond issues.

The first issues were KIA Revolving Fund Revenue Program and Revenue Refunding Bonds (Fund B), 1997 Series L; Governmental Agencies Fund Program Revenue Refunding Bonds (Fund C), 1997 Series I; and Solid Waste Revolving Fund Revenue Refunding Bonds (Fund E), 1997 Series E. The purpose of these issues is to refund outstanding maturities and to provide new construction funds for various Fund B projects. The expected ratings from Standard and Poor's and Moody's is A. Gross proceeds from each of the issues are: Fund B, Series L: \$29,220,000 (including \$3,445,000 in project funds); Fund C, Series I: \$4,760,000; and Fund E, Series E: \$2,535,000. The expected net interest rates are: Fund B: 5.02%; Fund C: 4.99%; and Fund E: 5.08%. The average annual debt service for each issue is: Fund B: \$2,236,099; Fund C: \$700,000; and Fund E: \$272,942. The first call will be ten years, and it will be a negotiated sale. Bond counsel is Peck, Schaffer, and Williams; underwriter's counsel is Brown, Todd, & Heyburn; underwriter is Merrill Lynch, Inc.; and the trustee is National City Bank. The bonds to be refunded for the Fund B portion will be selected maturities of the 1989 Series A revenue bonds, 1991 Series C, 1991 Series E, and 1992 Series G. For Fund C, the selected maturities are the 1991 Series D revenue bonds; and for Fund E, the selected maturities are for 1992 Series A refunded bonds. Present value savings for each issue are: Fund B: \$1,385,919; Fund C: \$157,826; and Fund E: \$63,353.

Senator Buford made the motion to approve the KIA issuance. The motion was seconded by Representative Graham and passed by voice vote.

The second project was KIA Bond Anticipation Notes, 1997 Series B. The purpose of the issue is to provide interim financing for KIA Fund C participants during construction before converting to permanent Fund C long-term bonds. The expected rating from Moody's is A-1. The gross proceeds are approximately \$5,000,000. These bonds are variable rate bonds, with the expected net interest rate at 4.655%. The estimated average annual debt service is \$191,301, and the first call date will be

Mr. Howard next discussed the Kentucky Economic Development Finance Authority (KEDFA) Adjustable Rate Industrial Building Revenue Bonds, Series 1997, for Goodwill Industries of Kentucky, Inc. The purpose of this issue is to acquire land, buildings, and equipment to establish Goodwill Centers in Nicholasville, Winchester, and Elizabethtown.

The proposed date of sale is September 18. The bonds will be unrated, as this is a private placement with Bank One. Gross proceeds will be \$1,800,000, and this will be a variable rate issue. The bond counsel is Wyatt, Tarrant & Combs; underwriter's counsel is Peck, Shaffer & Williams; and underwriter and trustee is Bank One.

[The Commonwealth serves as a "conduit" for KEDFA bond issues. The Commonwealth issues the bonds at a tax-exempt rate for the benefiting institution, in this case, Goodwill Industries of Kentucky Inc., but the benefiting institution has full responsibility for repayment of the bonds.]

Senator Buford made the motion to approve KEDFA Adjustable Rate Industrial Building Revenue Bonds, Series 1997, for Goodwill Industries of Kentucky, Inc. The motion was seconded by Senator Leeper and passed by voice vote.

The next item Mr. Howard discussed was a follow-up report on the Kentucky Asset/Liability Commission General Fund Tax and Revenue Anticipation Notes (TRANS), 1997 Series A. These bonds were sold on July 8, closed on July 10, and have a final maturity of June 25, 1998. The bonds were rated in the highest category by Fitch, Moody's, and Standard & Poor's. The yield on these notes is 3.85%. For comparison purposes, Mr. Howard said the Bond Buyer One Year Index was 3.87%. The financing team members are Bear Stearns & Co. as managing underwriters; Bank One is trustee; Peck, Shaffer, & Williams is bond counsel; and underwriter's counsel is Brown, Todd & Heyburn.

Chairman Damron asked Mr. Howard if the Kentucky Asset/Liability Commission will be able to issue additional TRANS, based on incoming tax revenues and flows. Mr. Howard responded that it was too early to decide, but at the present time he did not think so.

Chairman Damron asked if the state is under any risk to pay back any of the arbitrage earnings. Mr. Howard said the Commission will have a better idea in October

\$5,070,000 to refund 1989 and 1991 bonds; Clinton County - \$930,000 to renovate and build an addition to the elementary school; Fort Thomas Independent (Campbell Co.) - \$500,000 to refund 1987 bonds; Garrard County - \$2,325,000 to refund 1989 bonds; Hickman County (2) - \$585,000 to refund 1989 bonds and \$2,655,000 to complete renovations and additions to the elementary school; and Paris Independent (Bourbon Co.) - \$1,465,000 to refund 1991 bonds. Mr. Howard noted an issue previously reported for Larue County on May 20, has been increased from \$1.2 million to \$1.5 million due to construction bids that came in over previous estimates.

Representative Wayne asked why the Edmonson County school bond issue was approved since the Department of Education and the SFCC normally do not approve refund savings that have less than 5% debt service savings. Mr. Howard responded that the Edmonson issue is a current refunding and not an advance refunding, and the savings accrue immediately. He said because the dollars are available today to benefit the school district, the present value rules do not apply to current refundings.

Representative Graham made the motion to approve the school bond issues with SFCC participation in debt service. The motion was seconded by Representative Wayne and passed by voice vote. Chairman Damron abstained from the vote.

Senator Leeper said there were six new local school district bond issues with locally-funded debt service. Local school bond issues were reported for the following school districts: Fairview Independent (Boyd Co.) - \$275,000 for renovations to the high school; Fort Thomas Independent (Campbell Co.) - \$234,000 to purchase modular classrooms for the high school; Frankfort Independent (Franklin Co.) - \$86,000 to complete roof improvements to the high school; Hazard Independent (Perry Co.) - \$3,925,000 to renovate the high school and the elementary school; Meade County - \$3,320,000 to refund 1989 bonds; and Trigg County - \$7,605,000 for renovation and construction of a middle school.

Senator Leeper said no action was required on school bond issues that are 100% locally-funded.

Chairman Damron said the updated monthly/weekly debt issuance calendar was enclosed for the Committee's information.

Mr. Bill Hintze, Deputy Budget Director, Governor's Office for Policy and

instituted emergency repairs to the roof, using insurance proceeds and FEMA assistance. However, during the Spring rains earlier this year, damage was revealed to be much more extensive than originally believed, and it was concluded that the built-up section of the roof needed to be replaced.

Mr. Hintze reported the Finance and Administration Cabinet determined that MSU could not afford to fix the roof using University funds, and Secretary McCarty declared this project an emergency. Funds to repair the roof were allocated from the Emergency Repair, Maintenance, and Replacement Account.

In response to a question from Senator Buford, Porter Dailey, MSU Vice-President for Administration and Finance, said there should be insurance reimbursement of 20%-30%, depending on the depreciated value of the roof, which is 18 years old. Mr. Hintze added that any money paid to MSU for roof repairs will be used to reimburse the Emergency Repair, Maintenance, and Replacement Account.

Chairman Damron said allocations from the emergency account do not require approval of the Committee, but must be reported within 30 days, which has been done.

The next project Mr. Hintze discussed was the General Butler State Park emergency dam repair. He said the repairs are crucial for safety and transport reasons. The dam, which holds back the lake, was weakened by the Spring rains and flooding. Also, the entrance road to the lodge, meeting rooms, and the conference facility transverses the dam. Engineers from the Transportation Cabinet and Facilities Management, and private consultants have viewed the dam and determined immediate remedial action is required.

Mr. Hintze said they originally thought the cost of repairs would be a lot higher than reported, and they aren't certain costs will not increase. He said they are allocating \$175,000 from the Emergency Repair, Maintenance, and Replacement Account with hopes that this amount will be sufficient.

In response to a question from Chairman Damron, Mr. Hintze said he thought it unlikely that the Road Fund could be used for this project.

Chairman Damron again noted that allocations from the emergency account do not require approval of the Committee.

project will require an additional \$224,900 (13% of authorized scope) from the Capital Construction and Equipment Purchase Contingency Account.

Mr. Hintze said the consensus is that the state should accept the low bid. Further cutbacks in the project would be highly undesirable and result in delays in the availability of facilities for area residents and tourists. He said Secretary McCarty has approved the cost overrun.

Senator Buford made the motion to approve the allocation of \$224,900 from the Capital Construction and Equipment Purchase Contingency Account. The motion was seconded by Senator Leeper and passed by voice vote. (The new project scope is \$1,954,900.)

Mr. Hintze said the next item approved by the Finance and Administration Cabinet was an inductively-coupled plasma-atomic emission spectrometer for Western Kentucky University (WKU). This piece of scientific equipment will be used primarily by the Chemistry Department. Mr. Hintze said this item would ordinarily require line item approval by the General Assembly. In this case, private funds are being used to finance a majority of the cost. The capital construction statutes provide an exception to line-item approval by the General Assembly for scientific equipment. The spectrometer will cost \$195,000; LECO Corporation will contribute \$120,000, and WKU will cover the remaining cost (\$75,000) using restricted funds or federal funds.

Mr. Hintze said the old spectrometer will be retained by the University and used for other things in the Chemistry Department.

Representative Wayne asked Mr. Hintze about the certification process for private donors and if it had been done in this case. Mr. Hintze said there was a letter of certification from the donor corporation saying they will provide the funds. This should probably be formalized through a letter from WKU, and he will check on it.

Representative Wayne said it is important to be consistent with what the Committee decided several months ago. Mr. Hintze said WKU may have already received a letter of certification, but he wanted to double check.

Chairman Damron said no action was required on this agenda item.

Mr. Hintze said the Community Education Center's purpose will be to help people in the service area of the University with issues such as low-income housing and substance abuse awareness.

Mr. Hintze said the current scope of the project is \$494,120, an increase from the original scope of \$334,736 previously reported. Mr. Hintze said a question had arisen as to whether the scope as reported is an inclusive scope for the project, including traditional elements such as land acquisition. He said they had reviewed both the capital construction statutes which define land acquisition as a project element and the statutes that permit state universities to do their own purchasing, including land acquisition. He said they had concluded that the issue is in a gray area, and in this particular case, acquisition costs could be treated either way - as part of the project scope or as a separate purchase. Regardless, he said the Finance Cabinet believes KSU has made a full accounting of all cost elements and the source of funds in the report they made to the Committee once the question was raised, and the Cabinet is satisfied that everything has been properly reported at this time.

Chairman Damron asked if there is adequate money in the HUD budget to furnish and equip the Center. Dr. Gus Ridgel, Vice-President for Finance and Administration, KSU, responded that the project scope will include all funds necessary for equipment and furnishings. Chairman Damron asked if the budget was adequate to deal with asbestos and lead abatement in the structures that are to be torn down as part of the project. Mr. Hintze said they thought the budget was adequate. Mr. Woody Baldwin, KSU, said that it had already been taken care of.

Chairman Damron also inquired about the Frankfort Urban Renewal Agency and its condemnation suit to acquire two parcels of land needed for the Center, and if the Finance Cabinet has determined that this action is within statutory procedures. Mr. Harold Green, Kentucky State University, responded that he had extensive conversations with Ms. Karen Powell, General Counsel for the Finance Cabinet, and based on the statute, there are two ways to proceed: under the state's condemnation power, or under the City of Frankfort's condemnation power. Mr. Green said the Urban Renewal Agency has received approval from the City of Frankfort to proceed, and KSU is being retained as counsel for the Urban Renewal Agency.

Chairman Damron explained KRS 416.560 requires any agency of the Commonwealth exercising the right of eminent domain to do so through the Finance

Senator Buford made the motion to approve the cost overrun on the Kentucky State University Community Education Center. The motion was seconded by Representative Wayne and passed by voice vote.

Mr. Hintze indicated that the next item submitted by the Finance Cabinet was a land acquisition in Bell County by the Department of Fish and Wildlife Resources, financed through the Kentucky Heritage Land Conservation Fund. He noted that the acquisition, referred to as the Boone Wildlife and Recreational Forest, had been reported previously at a scope of \$755,000. The Heritage Land Conservation Fund Board recently approved an additional amount of \$1,029,600 for the acquisition for a total scope of \$1,784,600. The land acquisition involves approximately 5,000 acres. Mr. Hintze noted that land acquisitions of \$400,000 or more are reportable to the Committee.

Chairman Damron asked about the impact on local government once the 5,000 acres included in the land acquisition are taken off the county's tax roll. He estimated that for a piece of property valued at \$1 million, the loss would probably be between \$15,000 and \$16,000 which he noted would go a long way towards paying a teacher's salary. Chairman Damron asked if there is any process whereby the Heritage Land Conservation Fund Board helps counties when they loose that much of their tax base, and if not, had the Board addressed that issue.

Mr. Hintze said that he did not know if the Board has addressed that issue or whether they considered "in lieu of tax" payments.

Chairman Damron asked if that question could be forwarded to the Board for their input. He said most acquisitions by the Board had been considerably smaller, but in this case, the state is taking 5,000 acres out of the tax base in a part of the state that is already fiscally stressed, particularly the school systems. He said he was not sure this was in the best interest of the people of Bell County and said he did not know how much input the local people had into the process.

Mr. Hintze said he did not think there is a formal public review of proposed actions of the Heritage Land Conservation Fund Board, but noted that they do have public hearings or public sessions before they take any action. He also noted that in this particular case, the action was approved for a second phase of the acquisition. He said

any coal remains and asked why the mineral rights were not being purchased, especially since they probably are cheap.

Chairman Damron asked if an environmental impact study was done on the property. Mr. Bush said the Department of Fish and Wildlife Resources did not do an environmental impact study and he could not speak for the Heritage Land Conservation Board.

Chairman Damron asked what would happen if there are serious environmental problems on the site. Mr. Bush said they would be the responsibility of the Department of Fish and Wildlife Resources and the Department's partners on this project, the Department of Parks and the Department of Forestry.

Mr. Jim Abbott, Director of the Division of Real Properties, said a representative of the Division of Engineering had toured the site and assessed the property regarding environmental issues.

Chairman Damron asked if any other work has been done on the site such as historical and archaeological surveys. Mr. Bush said such surveys are required for a 404 federal water quality permit, but not for this land acquisition.

Chairman Damron reiterated his concern that such large purchases by the state in a single county could impoverish the local tax base. Mr. Hintze agreed to get an answer to Chairman Damron's questions on the issue from the Heritage Land Conservation Fund Board.

Chairman Damron said no action was required on this agenda item.

Chairman Damron said the next project, the Blue Licks multipurpose building expansion/lodge/community pool, was an item added late to the agenda. He also recognized Representative Pete Worthington whose legislative district includes Blue Licks State Park.

Mr. Hintze explained that this project was originally approved by the 1990 General Assembly and reapproved by the 1992 General Assembly. Bids taken for the project exceeded both the authorized amount and the 15% cost overrun allowed by statute. The project was then disapproved by the 1994 General Assembly, but reapproved by

move all but \$250,000 of the \$1,730,000 approved for the pool, to the account established for the lodge. The remaining \$250,000 for the swimming pool project will be reserved for repairs to the existing pool to comply with health department standards and allow the pool to open next season. In addition, to award the bid to the low bidder, Finance is allocating \$473,200 from the Capital Construction and Equipment Purchase Contingency Account to the project.

Mr. Hintze summarized the actions of the Finance Cabinet regarding this project: they will go forward with the lodge with the 16 guest rooms; perform the most needed repairs to the pool using \$250,000; transfer the rest of the pool funds to the lodge project; and allocate \$473,200 from the contingency account to meet the low bid for the lodge. (The total scope of the project is now \$3,628,200.)

In response to a question from Chairman Damron, Mr. Hintze responded that he thought funds to build the new pool and build additional lodge rooms would be requested and recommended by the Department of Parks and the Executive Branch in the 1998-2000 Executive Budget. Mr. Hintze said he also expects an amendment to the Department of Parks Six-Year Capital Plan to be filed with the Capital Planning Advisory Board.

Senator Nunnelley made the motion to approve the contingency allocation for the Blue Licks lodge. The motion was seconded by Representative Wayne and passed by voice vote.

Chairman Damron said the next agenda item was Finance Secretary McCarty's response to a report by the Attorney General (AG). In June of this year, the Committee received a report from the AG's Office concerning their investigation of the Finance Cabinet's handling of a proposed state lease to consolidate some of the Justice Cabinet's offices. At issue was whether improper communications had taken place between state employees and a potential bidder when there was no official advertised effort underway to lease space for the Justice Cabinet. Chairman Damron said at the time of the AG's report, he assured Secretary McCarty and the Committee that the Finance Cabinet would have an opportunity to respond to the AG's report. Secretary McCarty asked that his report to the Committee be delayed until August, to give him and his staff adequate time to prepare a response. Chairman Damron noted that Secretary McCarty had prepared a written response to the AG's report which was in the members' folders. He also noted that the AG delivered a letter to the Committee just

Secretary McCarty addressed a portion of the AG's report that related to an alleged statement to a Bank One official by Rodney Ratliff, one of the owners of the Capital Complex East building on Versailles Road in Frankfort, which was part of the focus of the AG investigation. Secretary McCarty said the AG report alleged Mr. Ratliff told the bank official to call the Finance Secretary if there were any questions regarding the potential state lease of Capital Complex East. Secretary McCarty said his agency's review of the AG's report concluded that the alleged conversation naming him took place in the office of the owner's attorney. He said the subject matter was actually the ability of the owner to lease property to the Commonwealth because of a pending charge for an alleged violation of an environmental statute. When the question was posed, the owner responded "if you have a question regarding the applicability of the statute, call John McCarty." He said Ms. Mielcarek attended that meeting, and she would answer any questions regarding it.

Secretary McCarty stated that he had never spoken to any owner of the building in question, or to any representative of the owners, concerning the Capital Complex East building. He explained that he had not been contacted by any of the partners in this building, nor had he been contacted by any representative of the Governor's Office or any official or representative of the Democratic Party concerning this building or any other building.

Secretary McCarty said there was no contact made between officials of the Division of Real Properties or the Department of Facilities Management in an attempt to show favoritism or steer the space requirements for the Justice Cabinet to Capital Complex East. He said the only contact between the Division and the developer was between the Division's of Computer Aided-Design Drawing (CADD) technician and a representative of the Capital Complex East concerning a request from the Justice Cabinet about the possible location of a bathroom and a loading dock.

Secretary McCarty said this was not technically illegal under KRS 56.814, but acknowledged this contact created a perception of wrongdoing. He said the employee was doing what she believed to be in the best interest of the Justice Cabinet by attempting to determine if the user agency's requirements could be met. He said the CADD technician blocked in a portion of the Justice Cabinet's space requirement, using the building plan provided by the partners of Capital Complex East LCC. He added that the technician did this because if this process moved to the bid stage, this building,

two constituencies. They have the responsibility to interact with user agencies to ensure their space requirements are met, and they also deal with the landlords. In this instance, there was a lack of sensitivity to the possible public perception of this situation.

Secretary McCarty said the Commonwealth occupies approximately 5.8 million square feet of space in Frankfort; of this amount, approximately 1.8 million square feet is leased space. He added that the Frankfort/Franklin County economy is principally driven by the Commonwealth's business activities, and state government has developed a dependence on the private sector's ability to provide office and warehouse space as needed, or on a speculative basis. He noted that new space in excess of 780,000 square feet constructed on a speculative basis over the last ten years has been occupied by the state, and this has created the perception that state leases are awarded upon a basis other than what is in the best interest of the state.

Secretary McCarty said the property developers are people that mostly work and live in Frankfort and are successful business people. They know the local marketplace and can move very quickly if they see an opportunity. He added this is important because ownership of real estate requires a very strong capital base.

Secretary McCarty said their investigation did not indicate, nor does he believe, there was any intent by any personnel within the Division of Real Properties to influence the outcome of this project. He said if the project had been bid, it would have been bid like any other state lease.

Secretary McCarty said because of budget constraints, lack of bonding capacity or perceived lack of bonding capacity, and more important priorities from a policy perspective, the amount of property leased by the state has mushroomed over the last ten years. He recommended that the state control its own destiny regarding office space for two reasons: it makes long-term economic sense and it will alleviate what he considered an erroneous, public perception that state leases are given out as political plums. He said in the long-term, it is in the state's best economic interest to utilize a financing and building methodology that allows the state to either own, or ultimately own through lease-purchase options, the real estate that agencies occupy. He stated that the elimination of this erroneous public perception is paramount to restoring a belief that our system is fair to all who participate in the process.

preliminary recommendation is to reduce by half the amount of property state government now leases in Frankfort - to approximately 900,000 square feet.

Secretary McCarty said the Finance Cabinet, along with the Transportation Cabinet, is looking very seriously at the feasibility of a new facility for Transportation. This would be a facility that would be state-owned, and financed with state bonds or on a lease-purchase basis using the build-to-suit statutes. This facility would be between 350,000 and 500,000 square feet. It would be a first step in helping the state provide cost-efficient space and to remove the perception that state leases are awarded for political contributions. As part of the Fantus study, the Finance Cabinet is reviewing with an engineering firm a potential land use plan for two state-owned parcels in Frankfort.

Secretary McCarty said he views this as an opportunity to affect change, and by failing to work together to make this change a reality, the state will lose an opportunity to help restore the public's confidence in government.

Secretary McCarty said the State Auditor has finished his statutorily required review of the Division of Real Properties, and the report will be issued soon. He said that he was willing to work with the Attorney General's Office on meaningful changes that will not encumber the process of carrying out the business of the state.

Secretary McCarty said he believed appropriate actions were taken within the Finance Cabinet, but he is willing to discuss any changes that will help the Cabinet deal with the issue of public perception, while weighing the needs of the agencies served.

He stated that when EMPOWER Kentucky started, he talked to department heads, executive directors, and commissioners, challenging them to take some risks, to think forward, and to look for new and better ways to do things. This attitude of trying to get things done quicker may have impacted the situation. He said ultimately the responsibility for a CADD operator in Real Properties, going beyond the scope of what her normal activities are, may lie at his feet. Secretary McCarty said the challenge for the Cabinet is to put itself in a position where it can serve the needs of the user agencies and other people, while not putting themselves in a situation where there is the perception of acting inappropriately.

questioned the fairness of blaming the CADD operator for the situation. He said he could not imagine a CADD operator taking documents to a private vendor unless so directed. Secretary McCarty said the CADD operator was in attendance and would be happy to testify.

Chairman Damron said he was looking at testimony from the AG's report, and he was not indicating that she did or did not tell the truth. He restated that he believed it was not fair to blame a CADD operator if she was instructed by someone else. Secretary McCarty agreed, saying it was not his intent to blame the CADD operator. From his perspective, the CADD operator was working with the Justice Cabinet in an appropriate manner, and the Justice Cabinet did nothing wrong. He said after reviewing what Facilities Management staff knew about how the law worked as it related to state leasing, he discovered there was a lack of knowledge. He said they have held one seminar and will hold more to make sure Finance Cabinet employees understand the law.

Secretary McCarty restated that he was not blaming the CADD operator. He believed she made an honest error, and the Cabinet's review indicates that she was not directed to carry plans to the property owner's office.

Representative Wayne asked Secretary McCarty if he was advocating that the state construct a new office building, 350,000 - 500,000 square feet, to alleviate many of the leasing arrangements currently in place. Secretary McCarty said that in his opinion, the state needs to go beyond one office building, and look at various alternatives. He said the state is basically paying rent with no build-up of equity and added that he believed the Fantus study recommendations are correct if the state wants to deal with the issues of appropriate occupancy and perception problems among the public.

Representative Wayne asked Secretary McCarty if he was in a position to begin formalizing a proposal that would address this problem and present it to the General Assembly. Secretary McCarty responded there is a high degree of probability that in the next Executive Budget there will be a proposal and an appropriation for a new office building for the Transportation Cabinet. In response to another question from Representative Wayne, Secretary McCarty responded that this would be the first step in a comprehensive plan to address this issue.

whole other level of problems in terms of the procurement of services. Secretary McCarty stressed procurement of architectural services and office space are distinct types of acquisitions. He stated that it would be very difficult to put a selection committee in place and still respond in a timely manner to requests for space.

Representative Wayne said he sensed the perception problem that the state has encountered and the issue of making sure the political connections have nothing to do with leasing space. He said it is necessary to have as clean a process as necessary, and if a selection committee is the answer, the state may need to look at that. He stated there may be other ways to solve the problem, including broadening the jurisdiction of this Committee to make sure that lease reviews are more formal than they are now. He said he believed this may enhance Secretary McCarty's position and give more credibility to what the Finance Cabinet is trying to do.

Secretary McCarty said the selection process used for architectural and engineering projects, and the process for leasing space are substantially different activities that require substantially different timelines. He added it is very difficult to get outside architects and engineers to serve on selection committees as required, because by doing so they take themselves out of the running for state business.

Senator Leeper asked Secretary McCarty if the request for the Transportation building in the next budget is an additional building or a replacement. Secretary McCarty answered that it would be an additional building, new construction. In 1994, the General Assembly appropriated approximately \$10 million for renovation of what is still referred to as the "new state office building". After preliminary analysis, asbestos was found in the building. When additional analysis was done on what it would cost to renovate the building while leaving the employees in place and pulling out one floor at a time, the costs were found to be prohibitive. Secretary McCarty said the best way to renovate the new state office building, and other buildings which are in need of renovation, is to vacate the building.

He explained the preliminary plan is to build a new home for Transportation. When that building is complete, the new state office building will be empty and can be renovated much quicker and cheaper. The new state office building will then be used as a staging area to house people from other state buildings while they are renovated.

In response to a question from Senator Leeper, Secretary McCarty said no

there would be new programs where major new policy initiatives are in place requiring additional people.

Senator Nunnelley commented that the state has no track record of taking care of its facilities. He said he hopes that the state does not start thinking about building new buildings in Frankfort or across the state without working towards adequate financing of maintenance, repair and upkeep of existing facilities. He said the state should look toward building offices in the long-term, but in the short-term, the state should take care of what it has.

Chairman Damron said the Administration has begun the process of maintenance, and for the first time, has set up a Deferred Maintenance Account. He said he and Bill Hintze have discussed maintenance as a critical item and that the Deferred Maintenance Account should not be an account where money goes back to the General Fund if it is not used. He said Mr. Hintze has assured him the Governor's budget staff will work diligently with him to see the Deferred Maintenance Account is in the Governor's 1998-2000 budget proposal with a provision to keep the funds from lapsing to the General Fund at the end of the biennium.

Chairman Damron asked Secretary McCarty if he could support a proposal for a selection committee that would meet no more than four to eight hours, and review leases over \$75,000 or \$100,000. These leases would come to the selection committee after Finance has received final and best bids, and the independent selection committee would make the final decision.

Secretary McCarty said the question involved is one of timing, and he would be more than willing to discuss any alternatives that would not impact their ability to provide service to their clients, that being other agencies in state government.

Chairman Damron asked if the role of the Finance Cabinet was to do as agencies requested or to serve as protector of the taxpayers' interest. He said he viewed their role as a gatekeeper to help agencies make decisions as to the most efficient, effective use of government funds, to negotiate with vendors on behalf of taxpayers' dollars, and to decide upon leases objectively. Secretary McCarty agreed, saying they look at proposed leases prudently. He said Finance plays two roles: they make sure that agencies are getting value for the dollar that is being spent, and they review space plans to make sure plans are not excessive.

have attempted, in consultation with the Justice Cabinet and the Department of Juvenile Justice, to see if space requirements can be contained internally. If they are kept in one location that allows them to consolidate much of the Justice Cabinet, it will require several other agencies to move, which could be quite expensive.

Senator Buford commented he thought it would be appropriate to issue an RFP for the amount of space needed and if the building that is in controversy, Capital Complex East, meets the requirements, the Cabinet should lease it. He said he thought the property developers had done nothing wrong and acted prudently as business people.

Senator Buford said that in the future, maybe the state will have a better blend of leased and owned property, and if the property is state owned it should be properly maintained. He said he attended the Capital Planning Advisory Board meeting in July in which the Fantus Corporation made recommendations that the state should actively pursue more ownership of property. He said he also believes that the state should move in that direction so we do not have these same problems ten years from now. He added that it may be a good idea to have a vacant office building to house an agency while that agency's building is being renovated.

Representative Wayne asked how long it takes on average for an agency to lease space. Secretary McCarty responded that it varies, depending on the level of expertise and homework that the agency has done, and the amount of space required. He said in some cases it can take 12 to 18 months. Mr. Abbott added that a project the scale of the Justice Cabinet needs would take nine to 12 months to award a lease and another six months for construction.

Representative Wayne asked if any other states have leasing selection committees. Secretary McCarty responded that he did not know, but he would find out.

Representative Wayne said the idea of a leasing selection committee was not intended as a personal attack on Secretary McCarty. He added that the idea is to find a better way to lease property, so the public can be safeguarded against the impression that something is quid pro quo with regard to political contributions. He explained he was interested in creating a system to rise above such questions and to make sure the job is done as efficiently as possible. At the same time he acknowledged that the Finance Cabinet needs flexibility in the process.

sometimes, but he is interested in trying to streamline things, while at the same time, trying to be as up front as possible in exposing the good work Finance is doing.

Chairman Damron asked when the Fantus study would be presented to the Committee. Secretary McCarty said he would check with his staff, and follow-up with a letter to the Chair. Chairman Damron said the Committee would be interested in seeing this report.

Chairman Damron said there was a previous motion that the recommendations of the AG, along with proposed legislation, be referred to the Program Review and Investigations Committee. He said that action had not been completed, pending the Committee's chance to talk with Secretary McCarty. Chairman Damron said with approval from the Committee, he would like to consider reviewing the leasing process, and work with Secretary McCarty and his staff to develop a proposal to create something that Finance could live with, and use some of the AG's recommendations. He said the Committee will then review the document before determining whether or not the issue needs to be sent to the Program Review and Investigations Committee.

Representative Wayne said he was in favor of this strategy, and he thought LRC and Finance should do more research as to what other states are doing.

Senator Nunnelley made a motion that the Committee withhold sending any information to the Program Review and Investigations Committee. The motion was seconded by Senator Leeper and passed by voice vote.

Chairman Damron said the Committee will advise the Program Review staff that the issue is not, at this time, being referred to them, and the Committee will move forward on its own.

Representative Wayne said this action clearly says the Committee is going to take this issue seriously, study it, and come up with recommendations to address the problem.

Chairman Damron said the next meeting is Tuesday, September 16, 1997, at 1:00 p.m.

The meeting was adjourned at 3:10 p.m.